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**DEMOCRACY IN THE REPUBLIC OF KOREA: REAL OR
IMAGINARY? THE 1987 PRESIDENTIAL ELECTION
DEBATE**

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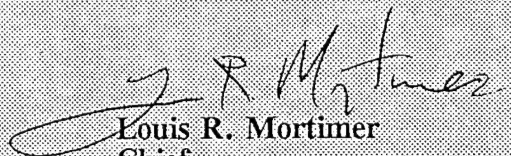
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KEY JUDGMENTS

The South Korean Government may be able to influence the outcome of the 1987 presidential election in the following ways:

- The 31 August interparty agreement between the ruling Democratic Justice Party (DJP) and main opposition Reunification Democratic Party (RDP) did not change the the election management process. The government is still responsible for distributing funds to political parties and can enforce restrictions on campaign activities that will limit contacts between presidential candidates and their supporters;
- The Department of Public Information Control of the Ministry of Culture and Information appears to be continuing the longstanding procedure of issuing guidance to newspapers and magazines. The Korean Broadcasting System and smaller broadcasting companies remain under government control. Unless this law is abrogated or amended before December, government control of the media will favor the DJP;
- There are no plans for interparty talks between the DJP and RDP to touch on other politically relevant laws such as the National Security Law and the Assembly and Demonstration Law. These laws could be used during the presidential campaign to prevent the political activities of groups supporting opposition candidates.

Changing the 1980 Constitution to provide for direct elections is an important step in South Korea's effort to promote democratization, but this change alone will not promote a viable democracy. Although both the DJP and RDP have made some significant proposals for removing some of the government's control over the political system, they have had trouble reaching agreement on how to change specific laws. It now appears likely that many of the democratic reforms mentioned by DJP presidential candidate No Tae-u will have to wait until after the February 1988 inauguration of the next president before they can be acted upon by either the ruling or opposition parties.

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BACKGROUND

On 29 June 1987, the Democratic Justice Party's (DJP) presidential nominee, No Tae-u (Roh Tae Woo), made a speech that refocused domestic and international attention on South Korea's 1987 presidential election. No, a close associate of President Chon Tu-hwan (Chun Doo Hwan) is widely viewed as Chon's handpicked successor and the only candidate with a chance to win the presidential election now scheduled for December. No has been considered a sure winner because the Constitution and current laws make it virtually impossible for opposition candidates to freely associate with groups opposed to No. But the size and violence of the June street demonstrations in many South Korean cities apparently convinced No that he could not ignore the political power of opposition leaders Kim Tae-chung (Kim Dae Jung) and Kim Yong-sam (Kim Young Sam). He therefore agreed to opposition demands in a way uncharacteristic of a Korean leader, and pointedly different from Chon's authoritarian style.

In his speech, No suggested the following eight point proposal for reshaping South Korea's political system and ensuring a more democratic society:

1. Constitutional revision through agreement between rival political parties;
2. Revision of laws to guarantee free and fair presidential elections;
3. Amnesty for Kim Tae-chung and restoration of his civil rights;
4. Guaranteed respect for human rights and the release of political prisoners except those incarcerated for involvement in violence;
5. Revision of the Basic Press Law to provide for a free press;
6. Revision of current laws to allow provincial and city governments more autonomy;
7. Guaranteed respect for the right of all political parties to freely associate with the people and promote the party's political interests; and
8. Promotion of a society free of violent crime and corruption.¹

In his speech, No praised Chon for helping democracy take root by limiting his tenure to one 7-year term of office. However, No announced his intention to withdraw from the presidential race if Chon blocked his initiatives for political reform. The President's subsequent resignation as head of the DJP allowed No to establish his own policies and strategies for winning the election without having to first

seek the approval of the Blue House.

Their activities appear to indicate that both Chon and No are committed to accomplishing South Korea's first direct election of a president since 1971. For example, the DJP and the main opposition--the Reunification Democratic Party (RDP)--have agreed on the draft of a new constitution, the first time in the 40-year history of the Republic of Korea that a constitution has been prepared through the collaboration of rival political parties. However, until a new constitution is promulgated, and the political laws written under Chon's direction in 1980 are revised or abrogated, the South Korean Government can influence the outcome of any election, including the 1987 presidential election. The first part of this study examines the existing electoral process and laws. It focuses on the restrictive clauses of these laws and comments on actions that might influence the December presidential election. The second section discusses DJP and RDP proposals for revising the 1980 Constitution and electoral laws. The two parties must agree on additional compromises if the laws are to be changed before the presidential election.

POLITICAL FREEDOM IN SOUTH KOREA UNDER CURRENT ELECTORAL LAWS

Constraints on the Political Process

When South Korea's current constitution and electoral laws were written in late 1980, political freedom was nonexistent. Between May and August 1980, Chon Tu-hwan arrested his political opponents, removed journalists and government officials thought to be opposed to his administration, and orchestrated the resignation of President Choi Kyu-hah (Choi Kyu Hah) and his own election to the presidency by the National Conference for Unification.² The 1980 Constitution, which was written under Chon's direction and approved in a national referendum held in October 1980, provided for the indirect election of the president by an electoral college. However, in the 1981 presidential election, Chon's political opponents had virtually no chance to win the presidency for several reasons. First, a provision of the 1980 Constitution dissolved all existing political parties. Second, the Special Law for Political Renovation, passed by the military-dominated Legislative Council for National Security (LCNS) on 3 November 1980, banned more than 500 politicians from running for public office on the pretext that they were, "conspicuously responsible for political and social confusion and corruption."³ When Chon allowed the formation of new political parties in January 1981, the main opposition

Democratic Korea Party (DKP) was unable to recruit presidential elector candidates in more than 50 percent of the electoral districts.⁴ The DKP encountered this difficulty because prominent community leaders who could have challenged DJP candidates were unwilling to associate with an opposition political party and risk being placed on a government blacklist after the election. When the electoral college met on 25 February 1981, more than 90 percent of the electors voted for Chon's reelection.⁵

The Central Election Management Committee

Under the 1980 Constitution, responsibility for election management is delegated to the Central Election Management Committee (CEMC). During the election campaign, the CEMC is responsible for ensuring that candidates obey the laws and that voting and ballot counting are done quickly and fairly. There are approximately 1,665 voting districts throughout South Korea and each of these districts has a District Election Management Committee (DEMC) subordinate to the CEMC. The proposed revision of the 1980 Constitution, did not change any of the provisions concerning the CEMC or election management.

While the members of the CEMC are all Chon supporters, there are adequate safeguards in the existing system to protect voting and ballot counting nationwide. There are nine members of the CEMC: three appointed by the President, three appointed by the Chief Justice of the Supreme Court, and three elected by the National Assembly. Theoretically, this division allows a balance of power in determining the membership of the committee. Since his election, however, Chon has maintained control over both the judiciary and the legislature, and it can be assumed that he also controls the CEMC. The CEMC is responsible for managing polling places on election day, but it does not appoint poll watchers and ballot counters. The Presidential Election Law establishes poll watching and ballot counting procedures and it allows each political party to participate in the process.

The CEMC can influence various aspects of the election during the campaign period. For example, under current law, the CEMC and the DEMCs are the only organizations authorized to disburse financial contributions to political parties and to publish campaign literature. There is virtually no way to verify the distribution of political funds to determine whether opposition parties receive their fair share. Also, the CEMC can prepare campaign literature and ballots in ways that favor the ruling party candidate.⁶

Existing Laws Restrict Campaign Activities

The Presidential Election Law, promulgated in December 1980, specifies the time period for the presidential campaign and the types of political meetings which are legal. This law is extremely important for two reasons. First, it restricts how long the campaign lasts. In 1981, the campaign lasted 30 days and it now appears the same period will be authorized for the 1987 election. This limits the time during which the candidates can legally promote their own campaign organizations, particularly at the local level. Second, private organizations are prohibited from sponsoring political meetings or raising funds in support of one of the candidates. These provisions enhance the CEMC's power in controlling campaign activities. Because of the arbitrary nature of the law, and the absence of safeguards guaranteeing the independence and impartiality of the CEMC, it is still possible for the government to allow pro-DJP groups to engage in campaign activities that are off limits for the opposition parties. For example, civil servants could be given extended leave to return to their home districts and encourage residents to vote for No Tae-u.⁷

The Political Party Law, promulgated in November 1980, prohibits most government officials, educators, and journalists from belonging to a political party. Additionally, those under the legal voting age of 20 cannot join or campaign for a political party.⁸ This law ensures that members of the civil service will remain loyal to Chon, or risk losing their jobs. It also denies opposition parties access to large numbers of politically influential individuals. This includes more than one million students, many of whom were actively involved in the summer 1987 demonstrations for revising the constitution.

The Political Funds Law, promulgated in December 1980, requires individuals or private organizations that desire to make a financial contribution to a political party, to deposit the money with a DEMC. Each DEMC keeps records of these contributions and is responsible for disbursing the funds to the intended recipient. Also, the government provides subsidies to those political parties that have representatives in the National Assembly. This system favors the ruling DJP, which controls 148 (54 percent) of the 276 seats in the legislature.⁹

The Basic Press Law, promulgated in December 1980, gives the Ministry of Culture and Information the power to censor anti-government news in both the printed and broadcast media. The responsibility for day-to-day supervision of the

press is delegated to the Ministry's Department of Public Information Control (DPIC). Thus, the government retains control over how events during the presidential campaign will be reported to the public and, to some extent, it controls the content of the issues discussed in newspapers and on the radio and television.¹⁰

The National Security Law, promulgated in December 1980, prohibits any individual or group from making statements or taking actions that are critical of the South Korean Government or promote "leftist" ideologies. Periodically, this law has been used to punish opposition politicians for their public statements on controversial issues such as reunification.¹¹

The Assembly and Demonstration Law, promulgated in December 1980, requires political parties and other organizations to obtain permission from the government to hold a public rally. The purpose of the law is to discourage anti-government demonstrations. However, it could also be used during the presidential election campaign to prevent political rallies other than those which are allowed under the Presidential Election Law.¹²

Government Policies on Revising Political Laws

Chon's actions and public statements since No's 29 June speech suggest that the government will not involve itself in the debate on changing the constitution and political laws. On several occasions in July and August, Chon publicly stated that he would not become directly involved in revising the constitution and that he would accept the interparty draft for a new constitution.¹³ No evidence exists that the government interfered with any of the 19 meetings between DJP and RDP officials that produced the draft of the proposed constitution. Following the formal submission of the draft to the National Assembly on 18 September, Chon described the new constitution as a "monumental work" and praised the DJP and RDP for "practicing the democratic principles of dialogue, compromise, and concession."¹⁴

The government is not known to have prepared legislation to amend political laws during the regular session of the National Assembly that began on 21 September. This omission is significant because in the past relevant legislation has been drafted by a government ministry before the session, introduced by the ruling DJP, debated and amended during brief legislative committee meetings, and placed before the entire Assembly for a vote toward the end of the session. This year the government is staying in the background and

allowing the DJP and RDP to negotiate changes in some of the political laws. Two other political parties, the New Korea Democratic party (NKDP) and the Korea National Party (KNP), which between them have 56 seats in the National Assembly, while not directly involved in the negotiations, can comment on joint proposals to amend the laws when they are discussed in National Assembly committee meetings.

Although the government is no longer dominating political developments directly affecting the presidential election, the press continues to be supervised by the DPIC and national security and police organizations are once again warning the public that "leftist" organizations are actively planning to use violence to disrupt campaign activities. In July, the government appeared to be moving forward with its own plans to eliminate many of the press controls that were instituted in 1980. Minister of Culture and Information Yi Ung-hui (Lee Woong-hee) twice announced that he favored the immediate abrogation of the Basic Press Law and Yi even directed his ministry to draft new legislation to liberalize both the printed and broadcast media.¹⁵ While it was later reported that the National Assembly would consider such legislation during an extraordinary session held in August, this did not happen. Apparently, revision of the Basic Press Law is one of the issues that has been left to interparty negotiations. The CPIC continues to issue its daily guidelines to the press and this supervision includes restricting coverage of important political developments. For example, there has been little press coverage of the new constitution. The government has been used to controlling the press for so long that it may fear ending press guidance now could jeopardize the entire electoral process. A fair presidential election cannot be guaranteed, however, unless the government ends its control of the press.

In August, the government initiated a new campaign aimed at preventing "leftist" organizations from interfering in politics and disrupting the presidential election. According to a recent police report, there are 24 leftist student and dissident organizations in South Korea that could use violent means to incite political chaos during the pre-election period. The number of South Koreans belonging to these groups is estimated to be around eight thousand.¹⁶ The issue of a government crackdown on "leftists" is politically controversial because the RDP, along with other political, religious, and human rights organizations, disputes the accuracy of government assessments of the threat posed by radicals. It is argued that the government too frequently uses the Assembly and Demonstration Law to deny requests for political rallies, and arrests students, labor leaders, and

even politicians using the National Security Law on the pretext that their non-violent activities and political statements could promote the growth of those groups that seek the violent overthrow of the democratic system. For example, in 1987, several thousand students and political activists were arrested for their participation in demonstrations for democratization organized by the RDP, the Coalition for a Democratic Constitution, and other dissident groups. These groups support the RDP and will be politically influential during the presidential election. If the government carries out an aggressive campaign to preclude dissident involvement in politics, this action could backfire and lead to widespread rioting similar to that which occurred in June. Also, this type of interference would compromise the fairness of the election because the RDP needs the support of these groups if it is to win the presidency.

CHANGES IN THE CONSTITUTION AND ELECTORAL LAWS

Summary of Constitutional Changes

The 31 August interparty agreement on revising the 1980 Constitution incorporated a number of compromises that would have been considered impossible before No Tae-u's 29 June democratization proposal. The DJP gave in to opposition demands for including an article prohibiting military involvement in politics, although the new constitution apparently does not mention how the military's past involvement in politics has impeded the growth of democracy. The RDP abandoned its proposals for establishing the office of vice president and allowing the president to run for reelection. From the beginning, both parties favored amending the constitution to provide for direct elections and to reduce the emergency powers of the president.¹⁷

Interparty Talks Promote Few Changes in Electoral Laws

Between July and September, the DJP followed through on one of No Tae-u's 29 June promises--to negotiate an agreement with the RDP on revising the 1980 Constitution--and it has made proposals for changes in a number of electoral laws that, if enacted, will enhance fair competition in the 1987 presidential election. It is significant that the ruling party has come out in favor of ending press guidance for newspapers and magazines, allowing each political party to handle its own fundraising without going through the CEMC or DEMCs, and having the presidential candidates participate in televised debates.¹⁸

However, three months of preparing for and conducting

interparty talks have so far failed to change various weaknesses in current electoral and political laws that could have facilitated fairness in the 1987 presidential election. It now appears that the DJP favors slowing down the democratization process as it has failed to use the interparty talks to follow through on its commitment to revise an electoral system that leaves the government in a strong position to influence the election. While there is still time for the ruling and opposition parties to agree on new laws and to have these laws approved by the National Assembly before the 1987 presidential election, it is likely that many of the existing laws will remain basically intact in December.

CONCLUSIONS

No Tae-u and the DJP will have several advantages in the 1987 presidential election unless a number of changes are made in the political laws between now and December. For example, the government controls the press and it appears that the DPIC continues to issue guidelines that promote reporting favorable to the ruling party. DJP proposed changes in the Presidential Election Law are not extensive enough to eliminate the possibility of government interference in the campaigns of opposition presidential candidates. The members of the CEMC are Chon appointees, and the law has no provisions for the opposition parties to be represented on the CEMC. The Political Party Law prohibits many South Koreans from actively campaigning for any political party. However, the RDP will need the support of some of these groups to help it win the presidency. All of these factors suggest that even if the RDP does resolve the conflict between Kim Tae-chung and Kim Yong-sam, the RDP will have to obtain overwhelming public support for its candidate in order to win the December election.

The DJP does not appear to be seriously interested in implementing additional democratic reforms before the 1987 presidential elections. The August negotiations between the DJP and RDP for revising the 1980 Constitution achieved two positive results: for the first time rival political parties cooperated and compromised to write an important legal document; and the revised constitution, when passed, will promote South Korea's democratic development to some degree because it reduces the president's authoritarian powers. However, it will take time for the principles of power sharing and checks and balances between the branches of the government to become established in South Korea.

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